

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FAIRFIELD FINANCIAL MORTGAGE GROUP,

Plaintiff(s),

ORDER

CV06-5962 (JS)(WDW)

-against-

JAMES LUCA, et al.,

Defendant(s).

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WALL, Magistrate Judge:

Before the court is a motion for reconsideration (DE[60]) of the undersigned's Order of 5/20/08 (DE[59]) and a stay of that order, filed by defendants Shaw Mortgage Group, Inc. ("Shaw"), Candice Giaccone ("Giaccone"), David Jacobson ("Jacobson") and Eric Forte ("Forte") on 5/30/08, the date designation for compliance with that order. The motion is denied. The court did not overlook any of the "facts" set forth by the defendants, nor did it fail to apply "attendant principles of law," as the defendants argue. The defendants' primary argument seems to be that they are not really parties to this lawsuit, but are merely "*named*" parties because they have a motion to dismiss pending and this court thus has no jurisdiction over them that would allow the entry of the order of 5/30. The defendants did not make that argument earlier, they report, because the court was "on judicial notice" of their alleged lack of jurisdiction. Their argument is absurd. They are parties until the court dismisses them as parties.

Moreover, the defendants utterly ignore the fact that they are under an obligation to produce the documents even if they are considered to be non-parties, given the procedural history of the subpoena/demand at issue. See DE[59]. The court thus denies the motion for reconsideration and for a stay. Given the defendants' statement that they have already produced all of the documents at issue "attached to [their] reply papers," (DE[60] at 3) it should be easy for

the defendants to produce them once again in an appropriate format for a response to a discovery demand and court order. And, if the court grants their motion to dismiss based on a lack of jurisdiction, the documents can be returned, along with the monetary sanctions, which must also be paid. Thus, the documents and the money must be produced to the plaintiff before noon on Thursday, June 5, 2008.

Dated: Central Islip, New York
June 3, 2008

SO ORDERED:

/s/ William D. Wall
WILLIAM D. WALL
United States Magistrate Judge